In the High Court of Punjab and Haryana at Chandigarh.

CR No.4256 of 2007
Date of decision: 12.11.2007

Chetan Dass Manchanda .... Petitioner

Versus

Niranjan Dev and others .... Respondents.

Present: Mr.Sudhir Aggarwal, Advocate,
for the petitioner.
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PERMOD KOHLI, J. (Oral):

This is plaintiff's revision against the order dated 28.05.2007 passed by the learned Additional District Judge, Gurgaon, rejecting Misc. Appeal of the plaintiff against the interim order dated 26.08.2006 passed by the learned Additional Civil Judge (Senior Division), Gurgaon, rejecting the application for grant of interim injunction under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure.

The plaintiff-petitioner filed a suit for possession and by way of an alternative relief sought a declaration decree claiming possession of land measuring 1 Kanal 20 Marlas. It was alleged that on the basis of family settlement/partition, all the share-holders were given 21 Kanals of land and at the time of entering the mutation his share was entered as 19 Kanals and 10 Marlas, thus, he has been deprived of 1 Kanal and 10 Marlas of land.

The respondents have disputed the claim of the plaintiff and stated that the land has been divided on the basis of its quality and situation. It has also come on record that mutation has been entered on the basis of the family settlement/partition and the entries were accordingly made in the

Rapat Roznamcha.

I have heard the learned counsel for the petitioner at length.

The family settlement itself is not disputed. Both the learned Courts below have found that the plaintiff-petitioner has no prima facie case as the partition is apparently on the basis of the better quality and fertility of the land. It has also come on record that there is tube-well in the land of the plaintiff-petitioner, though the same has been kept joint between the plaintiff-petitioner and defendant No.1. It has also come on record that the plaintiff obtained better quality of land than the defendant-respondents. Accordingly, the learned trial Court refused the injunction. The order of the trial Court has been up-held by the learned Lower Appellate Court.

The only ground urged before me is that the mutation has been wrongly attested and contrary to the family settlement/partition which is a written document. Learned counsel for the petitioner has not been able to show that under the written document he was given 21 Kanals of land. Under these circumstances and in view of the observations of the learned Courts below that there is tube-well in the land of the plaintiff-petitioner and that the family settlement/partition was made on the basis of the better quality and fertility of the land, I do not find any merit in the present revision petition and the same is hereby dismissed with no order as to costs.

12.11.2007 (PERMOD KOHLI)
BLS JUDGE